

Date of Hearing: April 13, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 14 (Waldron) – As Amended March 26, 2015

SUBJECT: Unmanned aircraft systems: task force

SUMMARY: Establishes the Unmanned Aircraft Systems (UAS) Task Force to develop a comprehensive policy for the use of UAS in California. Specifically, **this bill:**

- 1) Creates the UAS Task Force, to be operational until January 1, 2018.
- 2) Requires the task force to take all actions necessary to research, develop, and formulate a comprehensive policy for UAS to promote aviation, aerospace, agricultural, public safety and technology industry uses throughout the state, including:
 - a) Reviewing regulations and guidance from the Federal Aviation Administration (FAA) regarding UAS;
 - b) Advising the Governor, the Governor's Office of Business and Economic Development, and the Legislature regarding FAA policy development, task force activities, and public comment;
 - c) Providing written recommendations and suggested legislation;
 - d) Studying the private use of UAS to encourage development of the UAS industry;
 - e) Evaluating complaints and concerns that are expressed to the task force regarding the use of UAS;
 - f) Making recommendations with respect to ensuring that UAS users comply with applicable laws; and
 - g) Encouraging communication and resource sharing among individuals and organizations involved in the aviation, aerospace, agriculture, government, and technology industry, including business, the military, and academia.
- 3) Requires the task force to submit any written recommendations, suggested legislation, and any other documents it prepares to the Legislature and the Governor on or before January 1, 2018.
- 4) Specifies that the task force shall consist of 10 members:
 - a) The Adjutant General of the Military Department, or his or her designee, who shall be an ex-officio member;
 - b) Three members appointed by the Governor, including a member representing the California University System, a member representing agriculture, and a member from the Governor's economic development group;

- c) Three members appointed by the Senate Committee on Rules, including a member representing the aerospace industry, a member representing the Academy of Model Aeronautics, and a member representing law enforcement; and,
 - d) Three members appointed by the Speaker of the Assembly, including a member representing business and industry and two public members who have participated in the UAS industry and who have experience operating UAS.
- 5) Authorizes the task force to meet as frequently as necessary to carry out its responsibilities.
 - 6) Specifies that the members of the task force shall serve without compensation, but shall receive a per diem of \$100 and reimbursement for actual and necessary expenses incurred in connection with the performance of their duties.
 - 7) Authorizes the task force to appoint an executive director, who may employ staff upon approval by the task force.
 - 8) Specifies that the task force shall be funded by an appropriation in the annual Budget Act.
 - 9) Makes findings related to the need for California to have a comprehensive policy for the operation of UAS.

EXISTING LAW: Generally tasks the FAA with regulating aircraft operations conducted within the national airspace, including the operation of unmanned aircraft.

FISCAL EFFECT: Unknown

COMMENTS: Currently, the use of unmanned aircraft, commonly referred to as drones, in the skies over California is fairly restricted. Congress effectively closed the national airspace to commercial drone flights in the FAA Modernization and Reform Act of 2012 (Act), which established a framework for safely integrating unmanned aircraft into the national airspace no later than September 30, 2015. The Act does, however, permit certain commercial unmanned aircraft operations to take place before the integration framework is implemented. Section 333 of the Act authorizes the Secretary of Transportation to establish special interim requirements for the operation of these aircraft by designated operators, provided the aircraft and their operators meet certain minimum standards and have applied for a commercial use exemption. To date, a handful of commercial operators have applied for and received permission to fly commercial drones, including several film production companies; construction, surveying, and inspection companies; and a number of real estate firms. The Act also sets out a separate interim operation exemption for “public unmanned aircraft,” allowing public agencies like police departments to operate drones upon application, provided the aircraft and their operators meet certain minimum standards.

FAA authority preempts state or local government from enacting a statute or regulation concerning certain aspects of the operation of aircraft in the national airspace. However, states and local governments generally retain authority to limit the aeronautical activities of their own departments and institutions. In addition, under the Act, Congress provided that certain small UAS operated away from airports and air traffic and near the ground level are exempt from federal regulation, if they are flown for exclusively recreational, non-commercial purposes. Specifically, the Reauthorization Act prohibits the FAA from issuing rules limiting or

prohibiting model, hobby or recreational use aircraft so long as: 1) the aircraft is less than 55 pounds; 2) the aircraft does not interfere with and gives way to any manned aircraft; 3) the aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization; 4) the aircraft is flown within the line of sight of the operator and used solely for hobby or recreational purposes; and 5) the operator of the model aircraft notifies both the airport operator and air traffic control tower if the aircraft is flown in an area within five miles of an airport. As a result, private citizens are piloting most of the drones seen in California today.

This bill creates the 10-member UAS Task Force for the purpose of formulating a comprehensive policy for the operation of UAS in California that is consistent with FAA regulations and guidelines. The task force would not have any specific authority to implement policy, but would instead be tasked with making recommendations, including suggested legislation, to the Governor and the Legislature. The task force would operate through 2016. The author introduced the bill to ensure that California is ready once the FAA finally opens the national airspace for broad commercial drone use, at which point the number of drones in the skies is anticipated to skyrocket.

Argument in support: The Silicon Valley chapter of the Association of Unmanned Vehicle Systems International argues that the creation of a UAS Task Force "will give our industry the opportunity to hear, discuss and resolve issues of public policy before problems arise, and simultaneously provide real time information to legislators and government entities pertaining to this rapidly changing technology."

Arguments in opposition: Consumer Watchdog and Privacy Rights Clearinghouse both argue that "the Legislature should be able to consider and debate the merits of this technology and develop necessary regulations concerning its use without the need for a government task force."

Committee concerns: The need for a UAS Task Force is unclear. The Legislature has grappled with dozens of UAS-related bills in the past several years and will hear several more this year. The Legislative process provides ample opportunity for interested parties to weigh in on these bills and debate their relative merits. It is not clear what a separate task force would provide that cannot already be accomplished through the Legislative process.

Double referral: This bill will be referred to the Assembly Privacy and Consumer Protection Committee should it pass out of this committee.

Related legislation: AB 56 (Quirk), among other provisions, generally prohibits public agencies from using UAS with certain exceptions applicable to law enforcement agencies and in certain other cases, including when the use of the UAS achieves the core mission of the agency and the purpose is unrelated to the gathering of criminal intelligence. AB 56 is scheduled to be heard in the Assembly Public Safety Committee on April 14, 2015.

SB 142 (Jackson), clarifies that the operation of an unmanned aerial vehicle below the navigable airspace overlying the property of another without permission constitutes trespass, and that using such a vehicle in trespass to capture images or recordings of individuals engaged in personal or familial activities constitutes physical invasion of privacy. SB 142 passed the Senate Judiciary Committee on April 7.

SB 170 (Gaines), makes it a misdemeanor to intentionally operate a UAS below the navigable airspace overlaying a state prison or jail. SB 170 would additionally make a person who uses a UAS to bring alcohol, controlled substances, or deadly weapons into a state prison or jail subject to the imposition of a one-year sentence or a doubled fine. SB 170 is scheduled to be heard in the Senate Public Safety Committee on April 14.

SB 262 (Galgiani and Anderson), authorizes law enforcement agencies to use UAS if the use complies with protections against unreasonable searches guaranteed by the United States Constitution and the California Constitution, federal law applicable to the use of UAS by a law enforcement agency, and state law applicable to a law enforcement agency's use of surveillance technology that can be attached to UAS. SB 262 is scheduled to be heard in the Senate Public Safety Committee on April 14.

SB 263 (Gaines), prohibits a person subject to certain protective orders from operating a UAS in a way that causes an unmanned aircraft to fly within the prohibited distance of the other person, or from capturing images of the other person by using a UAS. SB 263 has not been referred to a policy committee.

SB 271 (Gaines), makes it an infraction to use a UAS to capture images of K-12 public school grounds during school hours without the written permission of the school principal or an equivalent school authority. SB 271 is scheduled to be heard in the Senate Public Safety Committee on April 14.

REGISTERED SUPPORT / OPPOSITION:

Support

Silicon Valley Chapter, Association of Unmanned Vehicle Systems International
Southwest California Legislative Council

Opposition

Consumer Watchdog
Privacy Rights Clearinghouse

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